

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

ASHLEY H. THOMPSON, mother,
JUSTIN THOMPSON, minor child,
JORDAN THOMPSON, minor child,
and RONALD C. THOMPSON,
husband,

Plaintiffs,

v.

GEO MARINE, INC., and
RUBEN GARZA,

Defendants.

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* CIVIL ACTION NO. 2:06cv420-WHA

DEFENDANTS' RESPONSE TO COURT'S JUNE 27, 2006, ORDER

COME NOW the Defendants, and respond to the Court's Order to Show Cause entered on June 27, 2006, as follows:

1. The undersigned counsel has been retained to represent the Defendants in this case, Geo Marine, Inc., and Ruben Garza. The undersigned filed a timely Answer to the Complaint electronically on June 6, 2006. A copy of the notice of electronic filing is attached hereto as Exhibit A. Since that time, the undersigned has not received any additional notices of electronic filing from the clerk's office.

2. It is now the understanding of defense counsel that on June 6, 2006, the Court entered an Order regarding the Planning Meeting Report required pursuant to Rule 26, Fed.R.Civ.P. The undersigned counsel never received a copy of this Order which specified the deadlines for filing the Planning Meeting Report.

3. Although the undersigned was unaware of the filing deadlines, the parties did

hold their planning meeting on June 19, 2006. A draft report was prepared and exchanged for changes and revisions. The completed Planning Meeting Report is being filed on this date.

4. In response to the Court's Order of June 27, 2006, the undersigned counsel was not aware of the specific deadline for filing the Planning Meeting Report. The failure of the parties to timely submit the Planning Meeting Report is not indicative of a lack of prosecution of the case on behalf of the Plaintiffs. Rather, the failure to meet the deadline was caused by the undersigned counsel's lack of knowledge of the deadline. The undersigned has contacted the clerk's office to make sure that additional pleadings and orders filed or entered in this case are received electronically by the undersigned counsel. See Exhibit B.

WHEREFORE, PREMISES CONSIDERED, the undersigned respectfully requests this Honorable Court not dismiss this case for lack of prosecution. The failure of the parties to submit the Planning Meeting Report in accordance with the Court's deadline is not indicative of a lack of prosecution of this case on behalf of the Plaintiffs. Any fault for this failure to meet the deadline rests with defense counsel who did not file the completed Planning Meeting Report in accordance with the Court's prior Order of June 6, 2006.

Respectfully submitted this the 29th day of June, 2006.

/s/ S. Anthony Higgins
S. ANTHONY HIGGINS
Attorney for Defendant Geo-Marine, Inc.

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certified that on the 29th day of June, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Stan Moorhous, Esq.

Nelson Law, LLC

25 S. Court Street

Montgomery, AL 36104

/s/S. Anthony Higgins

Of Counsel